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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/644,221	08/22/2000	Abha Ahuja	P1188	1420
23370	7590	10/08/2004	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309				GECKIL, MEHMET B
ART UNIT		PAPER NUMBER		
		2142		

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/644,221	AHUJA ET AL
	Examiner	Art Unit
	Mehmet B. Geckil	2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 July 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3,5,8-13,16-21,24-29,32-36,38,41-46,49-54,57-62 and 65-81 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1-3,5,8,9,34-36,41,42 and 67-81 is/are allowed.

6) Claim(s) 10-13,16-21,24-29,32,33,38,43-46,49-54,57-62,65 and 66 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06212004.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

1. Claim 38 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are indefinite because the claim 38 depends on cancelled claim 37.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 10-13, 16-21, 24-29, 32-33, 43-46, 49-54, 57-62 and 65-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann et al in view of Kaplan et al.

4. Mann et al (6,314,093) taught the invention substantially as claimed including assigning a cost to each of the routes and selecting the route with the lowest cost a defined by a cost function and propagating the selected route to a router and causing the router to route traffic from the source to the routing destination over the selected route wherein the cost is a function of path characteristics over the route to which the cost is assigned (see col 4, line 24 et seq; col 6, line 4 et seq; col 9, line 58-67 and col 10, line 1 et seq). Mann et al did not teach measuring path characteristics but Kaplan et al (6,016,307) taught all of that, e.g., a telecommunication switching system employing a multi-protocol telecommunication routing optimization which utilizes

predetermined and measured parameters in accordance with a set of user priorities in determining the selection of the lowest cost telecommunication path or route (col 5, line 23 et seq) wherein predetermined parameters included maxbandwidth, reliability, economy (cost), availability and security, (TABLE A), and measurable parameters included present state, average state, data size, time and available bandwidth, and wherein the system performed performance analysis of the route using a cost function analysis and selected routes according to cost characteristics and the like (col 3, line 29 et seq, cols 4-5, and col 7, line 24 et seq.)

5. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Mann et al and Kaplan et al in order to advance Mann et al system with measurable path characteristics to input to their route finder generic engine so that a more dynamic route founding system is established by their system. Other claimed elements are all obvious variations of the well known features of traffic routing.

6. Applicant's amendment of objected claims are not in proper form, i.e., they include an "or" which makes an alternate claim language and thus does not change the scope of the previously rejected claims. Therefore, claim rejections are maintained with respect to these improperly amended claims.

7. Claims 1-3, 5, 8-9, 34-36, 41-42, and 67-81 are allowable over the cited prior art.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehmet Geckil whose telephone number is (703) 305-9676. The examiner can normally be reached on Monday through Friday from 6:30 A.M. to 3:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Jack Harvey, can be reached on (703) 305-9705. The fax phone numbers for the organization where this application or proceeding is assigned are listed hereinbelow.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800/4700. Customer service number is (703) 306-5631.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2021
Crystal Drive, Arlington, VA., Fourth Floor (Receptionist).

10/06/04



MEHMET B. GECKIL
PRIMARY EXAMINER